



*Adults with Cognitive and
Physical Disabilities Services*

*An Office of the
Department of Health and Human Services*

John E. Baldacci, Governor

Brenda M. Harvey, Commissioner

Developmental Services Grievance Process

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Department of Health and Human Services

*Maine People Living
Safe, Healthy and Productive Lives*

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To Appeal A Grievance Send To:

Department of Health & Human Services

**Mary Crichton
State House Station 11
2nd Floor Marquardt
Augusta, ME 04333-0011
Phone(207) 287-4218
TTY 1-800-606-0215
FAX (207) 287-9915**

I. WHAT IS A GRIEVANCE?

A grievance is something you can do if you are not getting what you think you should or you don't agree with what you are getting from Developmental Services or your other providers. Some people may call it an appeal. These words really mean the same thing, but for this purpose we will use the word grievance. **If you need an interpreter or something else to help you with your grievance, you need to tell your caseworker**

A Grievance is a way to decide who is right when there is disagreement over services and other types of help which are provided by Developmental Services.

You may not agree with your caseworker at Developmental Services when you want something. Your caseworker tells you that it is unavailable or that you cannot have it. You may have made complaints about your home or program and nothing is being done. You may want someone to decide whether you or the caseworker is right. A grievance is a way to decide who is right when there is disagreement over services and other types of help provided or paid for by the Department.

Another way to work out a disagreement is to ask your caseworker to find someone from outside the regional office who has had special training in discussing ways of solving the problem. This is called **mediation** and you can ask for mediation anytime during the grievance process. It stops the time limits while you, the mediator and regional staff are trying to reach an agreement. Sometimes provider staff will be at the mediation meeting. If the mediation is not successful, you can continue with your grievance. You can find the phone number for mediation at the end of these rules.

The law provides for grievances. The right to an appeal is found in the Community Consent Decree. It is also found in Maine Law, 34-B MRSA Section 1203(4).

II. WHAT MAKES A GRIEVANCE?

Developmental Services will provide an opportunity for a hearing whenever there is a disagreement about anything Developmental Services did or should have done. When you and your caseworker cannot agree on what you want, what you need, or how to run your life, ask for mediation or a grievance. When you ask for this it is called **filing a grievance**.

Below are some examples of things you might want to file a grievance about:

Example:

You think you need to find a job. You tell your caseworker, the caseworker says that there is no job available, no money for a job coach, and that your request for a job can wait.

Example:

You are having trouble with a staff member or a resident at your home. You think you need to get away for awhile. There could be a fight and someone might get hurt. Your caseworker says there is no place to go and you should stick it out, and try harder to stay out of trouble.

Example:

You go to a meeting to plan for your services. You say that you really want a new place to live where you have the choice of one roommate. The group tells you other things are more important, and they won't put this into your plan.

III. HOW DO I FILE A GRIEVANCE?

There are a number of easy steps to file a grievance about a decision of Developmental Services. Don't forget you can try to mediate a decision before you file a grievance.

For More Information contact the Developmental Services Regional Office nearest you.

Region 1 (Cumberland, York)

DHHS— Developmental Services

169 Lancaster Street

Portland, ME 04101

TEL: (207) 822-0270 or 1-800-269-5208 TTY: 1-888-254-0311

Region 2A (Kennebec, Somerset)

DHHS— Developmental Services

State House Station #11/41 Anthony Ave

Augusta, ME 04333

TEL: (207) 287-2205 or 1-800-232-0944 TTY 1-800-606-0215

2R (Knox, Lincoln, Sagadahoc, Waldo)

DHHS— Developmental Services

91 Camden Street/Suite 103 3rd Flr.

Rockland, ME 04841

TEL: (207) 596-4302 or 1-800-704-8999 TTY 1-800-606-0215

Region 2L (Androscoggin, Franklin, Oxford)

DHHS— Developmental Services

15 Mollison Way

Lewiston, ME 04240

TEL: (207) 753-9100 or 1-800-866-1803 TTY 1-800-606-0215

Region 3B (Hancock, Penobscot, Piscataquis, Washington)

DHHS— Developmental Services

176 Hogan Road

Bangor, ME 04401

TEL: (207) 941-4360 or 1-800-963-9491 TTY 1-800-606-0215

Region 3C (Aroostook County)

DHHS— Developmental Services

30 Skyway Drive, Unit 100

Caribou, ME 04736

TEL: (207) 493-4000 or 1-800-432-7366 TTY 1-800-606-0215

Names and Addresses of the Regional Office of Advocacy

Chief Advocate

Richard Estabrook
11 State House Station
3rd Floor Greenlaw
Augusta, Me 04333-0011
287-4228 or 1-800-232-0944
TTY 1-800-606-0215

Region 1 (Cumberland, York)

Arthur Clum
DHHS
169 Lancaster Street
Portland, Me 04101
822-0270 or 1-800-269-5208
TTY 1-888-254-0311

Region 2A & 2R (2A Kennebec, Somerset, 2R Knox, Lincoln, Sagadahoc, Waldo)

2R-Margaret "Peggy" Rice DHHS 91 Camden St./Suite 103 3rd Flr. Rockland, ME 04841 596-4302 or 1-800-704-8999 TTY 1-800-606-0215	2A-Craig Patterson 11 State House Station 3rd Floor Greenlaw Augusta, ME 04333-0011 287-7189 or 1-800-232-0944 TTY 1-800-606-0215
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Region 2L (Androscoggin, Franklin, Oxford)

C.M. Macgowan DHHS 200 Main Street Lewiston, Me 04240 795-4538 or 1-800-482-7517 TTY 1-800-606-0215	Cheryl Fortier DHHS 200 Main Street Lewiston, Me 04240 795-4537 or 1-800-482-7517 TTY 1-800-606-0215
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Region 3B (Hancock, Penobscot, Piscataquis, Washington)

James Barnes
DHHS
176 Hogan Road
Bangor, ME 04401
941-4360 or 1-800-963-9491
TTY 1-800-606-0215

Region 3C (Aroostook County)

Margaret Rowland
DHHS
30 Skyway Drive, Unit 100
Caribou, ME 04736
493-4129 or 1-800-432-7366
TTY 1-800-606-0215

Disability Rights Center

PO Box 2007
Augusta, ME 04338-2007
207-626-2774 (Voice & TDD)
1-800-452-1948 (Voice & TDD)
207-621-1419 Facsimile

Below is a list of things you must do in order to file a grievance:

Level I Resolution: ISC (Caseworker) Responsibilities

You, or someone who represents you, should be working with the caseworker to see if your disagreement with the caseworker can be worked out. Your caseworker is supposed to work with you to see if he or she can solve your complaint. If it does not seem to be working out, you can file a grievance. The easiest way is to get the one page grievance form. It is on the sight of Health & Human Service website. You can, also, get one from your caseworker or your provider. Fill this form out, and give it to your caseworker, ISC, or provider. You, also, have the right to just ask for a grievance. Your caseworker, ISC or provider should then fill out the form themselves to start the grievance.

Remember, you or your representative may get help from the Office of Advocacy or the Disability Rights Center at any time during the grievance process. The address and phone number are written at the end of this booklet. If the grievance is resolved, the resolution will be noted in your file. If the grievance cannot be resolved within five (5) workdays the caseworker shall immediately refer the grievance to the Developmental Services Team Leader. The caseworker shall also notify you, your representative and the Office of Advocacy in writing that the matter has been referred to Level II, the Team Leader.

Level II Resolution: Developmental Services Team Leader Responsibilities

If the disagreement does not get worked out, then your grievance goes to the Developmental Services Team Leader. The Team Leader has five (5) work days to decide whether or not he/she can help you. The Team Leader has the right to speak to you and/or your representative in order to clarify the nature of the problem. The Team Leader must include your representative(s), in all discussions.

The Team Leader will consult with the Director of the Office of Adults With Cognitive and Physical Disability Services about your case and document the discussion by sending an e-mail to the Director which includes the date the Level II Grievance was received by the Team Leader. The Team Leader must give you a written decision within five (5) work days after getting your Level II grievance.

This decision will tell you:

- A. What the Team Leader understands to be your grievance;
- B. The Team Leader's decision on how to deal with your grievance; and
- C. An explanation as to why the Team Leader decided the way he/she did.

IV. APPEALING A FINAL GRIEVANCE DECISION

When you get your **Final Decision** from the Team Leader, it will tell you at the bottom that you have **ten days** after you receive it to ask for an appeal. If you are unhappy with the decision, you or your representative should write a short letter and say you want to appeal. Writing a letter asking for an appeal is an easy way to "file" an appeal of your grievance. Your letter should be sent to your caseworker and the Developmental Services' Central Office. The address is at the end of this booklet. If you want to explain why you don't agree with the **Final Decision**, you can also put this in your letter. That may help people understand the problem.

Level III Resolution: Formal Administrative Hearing

If a person and/or his/her representative decide to appeal the decision of the Team Leader or you want to appeal because the Team Leader has not or won't give you a decision, you can appeal.

Questions and Answers:

Examples of when a person might ask for mediation or file a grievance.

- When something you asked for during your planning process is not part of your action plan.
- When you have asked your caseworker over and over for something and they won't listen.
- When you have asked your guardian to do something and they don't agree and won't help you talk with your caseworker.
- When your living, work or day program situation needs some improvement right away.
- When you want to talk about a complaint/grievance or "problem" with more than just your caseworker.
- When you have a disagreement with another person and it can't seem to get resolved.

There is an important technical rule that the Commissioner must follow. The Commissioner's final decision must either adopt, modify or reject the Hearing Officer's recommended decision. If the Commissioner decides to change the recommended decision, the Commissioner has to state in writing the basis for his or her decision. Whenever the Commissioner disagrees a Hearing Officer's factual findings or makes additional factual findings, the Commissioner has to say in very clear language why he or she wants to make changes, and point to things in the record which support the changes. The Commissioner has to give substantial deference to a Hearing Officer's determinations on matters of credibility relating to testimony that was heard by the Hearing Officer, and when rejecting or modifying such determinations of credibility, the Commissioner shall state with particularity the reasons with appropriate references to evidence in the Record.

X. WHAT IF I DO NOT LIKE THE DECISION?

You have the right to appeal the Commissioner's decision to court. The Commissioner's decision will tell you (at the bottom of the decision) about your right to appeal the decision to the Maine Superior Court.

XI. CONTINUING SERVICES AND WORKING TOGETHER

Nothing in the rules prevents a grievant (person) and his/her ISC or case manager from continuing to work together to solve the problem, to mediate the conflict with a trained mediator, or to solve new problems as they may arise. While a grievance is pending, services the person is receiving shall continue unless safety or health reasons, as determined by the person's physician or planning team, suggest otherwise.

The appeal must be:

- (A) in writing,
- (B) addressed to the caseworker and the DHHS Developmental Services' Central Office; and
- C) **made within ten (10) workdays** of receipt of the decision or the failure of the Team Leader to comply with the procedures.

Your appeal may explain the basis for your objection to the decision of the Team Leader, but it does not have to.

V. HOW DOES THE DEPARTMENT PROCESS MY APPEAL?

A staff person from Developmental Services' Central Office shall forward the appeal to the Hearings Unit within three (3) workdays and shall request that a hearing be set within ten (10) workdays of receipt of the request. A hearing is a chance for you to tell a person, who does not work for Developmental Services, why you are unhappy. This person is called the **Hearing Officer**. The Hearing Officer will contact you, your representative, your caseworker, the Team Leader and Developmental Services' Central Office about where and when the hearing will take place.

VI. WHERE WILL MY HEARING BE HELD?

Your hearing will be held at a place that is comfortable for you. If it is easy for you to go to your caseworker's office, then the hearing may be held there. If it is hard for you to go to a nearby office, the hearing could be held somewhere near where you live or even at your home. The Hearing Officer will listen to you to decide what is the best place for a hearing. If you have a problem with the date or time of the hearing, the Hearing Officer should be able to find a better date and time for the hearing as well.

VII. WHAT YOU CAN EXPECT AT THE HEARING.

These hearings are informal - it is not like going to court. For instance, you can have someone with you to help you with your case, or just help you be comfortable. Here is what a typical hearing might look like:

1. Before the hearing, the Hearings Officer might contact you, your representative, and Developmental Services to discuss the upcoming hearing. The Hearing Officer may want to decide where the hearing is going to take place, what kind of facts people want to present to him/her, and what types of things people want to discuss or argue at the hearing. The Hearing Officer is free to make decisions about some of these things. If he/she does so, these decisions, or rulings, have to be in writing. Any rulings must be given to you or your representative before the hearing.

2. At the hearing, the Hearing Officer will make sure everyone is comfortable. The Hearing Officer will explain what the hearing is about, and will ask anyone if they have any questions about the hearing before the hearing starts. The Hearing Officer may also swear in witnesses to make sure everyone tells the truth.

3. The Hearing Officer can decide whether it is better for Developmental Services to go first at the hearing or for you to go first. In most cases Developmental Services will go first. Developmental Services will explain to the Hearing Officer its side of the story and will usually give documents such as reports and letters to the Hearing Officer in order to better show its side of the story. Developmental Services may call witnesses to testify about what happened in this case.

When this is going on, you or your representative have the right to object if you believe the information or facts that Developmental Services is giving to the Hearing Officer is repetitious, irrelevant, or is not the type of information people normally rely upon when making serious decisions.

4. After Developmental Services has finished presenting its case, it is your turn to present your case. You can explain your point of view and present documents to the Hearing Officer. You can have witnesses testify to support your case. Remember, Developmental Services can object to some of your evidence as well.

5. At the end of the hearing the Hearing Officer will ask if everyone had a full chance to present all their facts. The Hearing Officer may also ask if either you or Developmental Services want to make any final arguments about their case. When everyone is done, the Hearing Officer will make a recommended decision within (3) three workdays of the hearing. The Hearing officer will send the recommended decision to you, your representative, your caseworker, the Team Leader and, Developmental Services' Central Office.

VIII. WHAT HAPPENS WHILE MY APPEAL IS GOING ON ?

You and your caseworker can keep trying to solve your problem during the appeal, or to solve new problems that come up. If something needs to happen right away, you and your caseworker can try to find a temporary solution. If a temporary solution can't be found, then nothing will change until there is a final decision on your appeal.

IX. DOES THE HEARINGS OFFICER'S RECOMMENDED DECISION(S) ALWAYS DECIDE MY CASE?

No. The Hearing Officer's recommended decision gets sent to the Commissioner. The Hearing Officer at the same time gives both you and the Department ten workdays to write any last argument you have which you can also send to the Commissioner. The Commissioner then reads everything and will make a final decision within 30 work days. If the Commissioner does not send out a decision within 30 work days, then the decision of the Hearing Officer becomes the final decision.